

ESTTA Tracking number: **ESTTA235251**Filing date: **09/08/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91185538
Party	Defendant U.S. Preventive Medicine, Inc.
Correspondence Address	THOMAS F. BERGERT WILLIAMS MULLEN, P.C. 8270 GREENSBORO DR STE 700 MC LEAN, VA 22102-3835 tbergert@williamsmullen.com
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Signature	/Thomas F. Bergert/
Date	09/08/2008
Attachments	91185538AnswerCC.pdf (19 pages)(616231 bytes)

Registrations Subject to Counterclaim

Registration No	3006983	Registration date	10/18/2005
Registrant	Rodale Inc. 33 East Minor Street Emmaus, PA 180980099 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 035. First Use: 2001/10/00 First Use In Commerce: 2001/10/00 All goods and services in the class are requested, namely: ADVERTISING SERVICES, NAMELY, PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEB SITE AT WHICH USERS CAN OBTAIN INFORMATION AND CAN ACCESS WEB SITE LINKS FOR PRODUCTS AND SERVICES IN THE FIELD OF HEALTH, FITNESS, DIET, EXERCISE, LIFESTYLE, NUTRITION AND WEIGHT LOSS; ADMINISTRATION OF A DISCOUNT PROGRAM FOR ENABLING PARTICIPANTS TO OBTAIN DISCOUNTS ON GOODS AND SERVICES THROUGH THE USE OF A DISCOUNT MEMBERSHIP PLAN			
Class 038. First Use: 2001/10/00 First Use In Commerce: 2001/10/00 All goods and services in the class are requested, namely: Providing on-line electronic bulletin boards for transmission of messages among computer users concerning health, fitness, exercise, lifestyle, nutrition and weight loss			
Class 041. First Use: 2001/10/00 First Use In Commerce: 2001/10/00 All goods and services in the class are requested, namely: COMPUTER SERVICES, NAMELY, PROVIDING ON-LINE MAGAZINES AND NEWSLETTERS IN THE FIELD OF HEALTH, FITNESS, DIET, EXERCISE, LIFESTYLE, NUTRITION AND WEIGHT LOSS			
Class 044. First Use: 2001/10/00 First Use In Commerce: 2001/10/00 All goods and services in the class are requested, namely: Providing a web site on a global computer network featuring information in the field of health, fitness, diet, exercise, healthy lifestyle, nutrition and weight loss			
Registration No	1959078	Registration date	02/27/1996

Registrant	RODALE INC. 33 EAST MINOR STREET EMMAUS, PA 18098-009 UNITED STATES
Grounds for Counterclaim	The registered mark has become the generic name for the goods.

Goods/Services Subject to Counterclaim

Class 016. First Use: 1992/12/00 First Use In Commerce: 1992/12/00
All goods and services in the class are requested, namely: magazine in the field of health, fitness, diet, exercise and related lifestyle issues

Registration No	2222899	Registration date	02/09/1999
Registrant	RODALE INC. 33 EAST MINOR STREET EMMAUS, PA 18098 UNITED STATES		
Grounds for Counterclaim	The registered mark has become the generic name for the goods.		

Goods/Services Subject to Counterclaim

Class 016. First Use: 1998/01/02 First Use In Commerce: 1998/01/06
All goods and services in the class are requested, namely: SERIES OF BOOKS ON HEALTH, FITNESS, DIET, EXERCISE AND LIFESTYLE

Registration No	2550507	Registration date	03/19/2002
Registrant	RODALE INC. 33 EAST MINOR STREET EMMAUS, PA 180980099 UNITED STATES		
Grounds for Counterclaim	The registered mark has become the generic name for the goods.		

Goods/Services Subject to Counterclaim

Class 009. First Use: 1988/00/00 First Use In Commerce: 1988/00/00
All goods and services in the class are requested, namely: PRE-RECORDED AUDIO AND VIDEO CASSETTES AND CDS IN THE FIELD OF HEALTH, FITNESS, DIET, EXERCISE AND HEALTHY LIFESTYLES

Class 025. First Use: 1988/00/00 First Use In Commerce: 1988/00/00
All goods and services in the class are requested, namely: SHIRTS, HATS, [RUNNING SUITS, SWEATSUITS, VISORS, PANTS, SHORTS AND RAINWEAR]

Registration No	2964475	Registration date	07/05/2005
Registrant	Rodale Inc. 33 East Minor Street Emmaus, PA 180980099 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 035. First Use: 1999/05/00 First Use In Commerce: 1999/05/00
All goods and services in the class are requested, namely: PROMOTING THE GOODS AND SERVICES OF OTHERS THROUGH THE DISTRIBUTION OF PRODUCTS, SAMPLES AND

COUPONS AT A MOBILE HEALTH EXHIBIT

Registration No	2985760	Registration date	08/16/2005
Registrant	Rodale Inc. 33 East Minor Street Emmaus, PA 180980099 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 005. First Use: 2005/04/15 First Use In Commerce: 2005/04/15 All goods and services in the class are requested, namely: [ADHESIVE BANDAGES FOR SKIN WOUNDS; AIR DEODORANT AND AIR FRESHENERS; APPETITE SUPPRESSANTS,] DIETARY FOOD SUPPLEMENTS AND FOOD SUPPLEMENTS; [NUTRITIONAL AND DIETARY DRINK MIX FOR USE AS A MEAL REPLACEMENT; MEDICATED HAIR CARE PREPARATIONS AND SHAMPOO;] HERBAL SUPPLEMENTS AND NUTRITIONAL SUPPLEMENTS; VITAMINS AND MINERAL SUPPLEMENTS; [DENTAL RINSE; MEDICATED SKINCARE PREPARATIONS AND MEAL REPLACEMENT DRINKS]
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Registration No	3127258	Registration date	08/08/2006
Registrant	Rodale Inc. 33 East Minor Street Emmaus, PA 180980099 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 010. First Use: 2005/11/00 First Use In Commerce: 2005/11/00 All goods and services in the class are requested, namely: Heart monitors and blood pressure monitors

Registration No	2968489	Registration date	07/12/2005
Registrant	Rodale Inc. 33 East Minor Street Emmaus, PA 180980099 UNITED STATES		

Goods/Services Subject to Counterclaim

Class 009. First Use: 2003/09/00 First Use In Commerce: 2003/09/00 All goods and services in the class are requested, namely: PRE-RECORDED VIDEO TAPES FEATURING WORKOUT ROUTINES
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application No. 77/166,591

Rodale Inc.,)	
)	
Opposer,)	
)	Opposition No. 91185538
v.)	
)	
U.S. Preventive Medicine, Inc.,)	
)	
Applicant.)	
)	

ANSWER

NOW COMES U.S. PREVENTIVE MEDICINE, INC. ("Applicant"), before this honorable board and hereby answers the Opposition to Applicant's United States Application Serial No. 77/166,591 for the mark YES TO PREVENTION, against which a notice of opposition has been filed by Rodale Inc. ("Opposer"), as follows:

1. Opposer Rodale Inc. is a Pennsylvania corporation with a business address of 33 East Minor Street, Emmaus, Pennsylvania 18098-0099.

RESPONSE

Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegation of this paragraph, and on that basis denies the allegation.

2. For many years, and since long prior to any date of first use upon which applicant can rely, Opposer has adopted, used and registered various marks which comprise or include the term PREVENTION, either by itself, or together with another word or words, for various

products and services in the health, nutrition, diet and exercise field, and related collateral products and services.

RESPONSE

Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and on that basis denies the allegations.

3. Opposer is the owner of the following Principal Register registrations which are valid, subsisting, unrevoked and uncanceled:

MARK	REG. NO.	ISSUE DATE	GOODS/SERVICES
PREVENTION	1,470,533	12/29/87	Tape measures, note pads, recipe cards and files, towels, aprons, headbands, hats, visors and shirts
PREVENTION	694,267	03/08/60	Magazine
PREVENTION	1,914,946	08/29/95	Umbrellas and golf balls
PREVENTION HEALTH BOOKS	2,222,899	02/09/99	Series of books on health, fitness, diet, exercise, and lifestyle
PREVENTION WALKING CLUB	1,464,064	11/03/87	Indicating membership in an organization which is a club directed to those whose interest in fitness relates to the exercise of walking
PREVENTION'S FAMILY HEALTH LIBRARY	1,455,284	09/01/87	Series of health-related books published periodically
PREVENTION'S GUIDE	1,959,078	02/27/96	Magazine in the field of health, fitness, diet, exercise and related lifestyle issues
PREVENTION	2,550,507	03/19/02	Pre-recorded audio and video cassettes and cds in the field of health, fitness, diet, exercise and healthy lifestyles; shirts, hats, running suits, sweatsuits, visors, pants, shorts and rainwear
PREVENTION	2,643,325	10/29/02	Production of radio and television programs; and entertainment services, namely, a continuing series of programs in the fields of health, fitness, diet, exercise and lifestyle distributed over radio, television, satellite, cable, audio and visual media, and via a global computer network; Information services in the fields of health, fitness, diet, exercise and lifestyle provided

MARK	REG. NO.	ISSUE DATE	GOODS/SERVICES
			electronically via a web site on a multi-user global computer information network; and electronic publications via the world wide web containing on-line magazines, columns and articles in the fields of health, fitness, diet, exercise and lifestyle
PREVENTION	2,964,473	07/03/05	Promoting the goods and services of others through the distribution of products, samples and coupons at a mobile health exhibit
PREVENTION FITNESS SYSTEM	2,968,489	07/12/05	Pre-recorded video tapes featuring workout routines
PREVENTION	2,985,760	08/16/05	Dietary food supplements and food supplements; herbal supplements and nutritional supplements; vitamins and mineral supplements
PREVENTION.COM	3,006,983	10/18/05	Advertising services, namely, promoting the goods and services of others by providing a web site at which users can obtain information and can access web site links for products and services in the field of health, fitness, diet, exercise, lifestyle, nutrition and weight loss; administration of a discount program for enabling participants to obtain discounts on goods and services through the use of a discount membership plan; providing on-line electronic bulletin boards for transmission of messages among computer users concerning health, fitness, diet, exercise, lifestyle, nutrition and weight loss; computer services, namely, providing on-line magazines and newsletters in the field of health, fitness, diet, exercise, lifestyle, nutrition and weight loss; providing a web site on a global computer network featuring information in the field of health, fitness, diet, exercise, healthy lifestyle, nutrition and weight loss
GOOD HEALTH STARTS WITH PREVENTION	3,100,342	06/06/06	Dietary food supplements and food supplements; herbal supplements and nutritional supplements; vitamins and mineral supplements

MARK	REG. NO.	ISSUE DATE	GOODS/SERVICES
PREVENTION	3,127,258	08/08/06	Heart monitors and blood pressure monitors
PREVENTION	3,161,878	10/24/06	Calendars
PREVENTION	3,201,866	01/23/07	Desk and wall calendars; appointment books; diaries; scheduling books; time planner books

RESPONSE

Applicant denies that U.S. Registration Nos. 1,464,064 and 1,455,284 have not been cancelled. Applicant further denies that U.S. Registration No. 2,550,507 has not been cancelled for all but hats and shirts in class 25. Applicant further lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies said remaining allegations.

4. Opposer has long used the mark PREVENTION in connection with providing healthcare information and healthcare screening and testing services. Therefore the mark has become distinctive in association with such services and identifies Opposer as the source of such services rendered under the PREVENTION mark.

RESPONSE

Applicant denies the allegations in the second sentence of this paragraph. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies said remaining allegations.

5. As a result of Opposer's long use of its PREVENTION marks and its extensive advertising and promotion of the various products and services under the PREVENTION marks, Opposer's PREVENTION marks have become exclusively associated with products and services originating with Opposer, have become extremely well known and have become famous.

RESPONSE

Denied.

6. Applicant, on April 26, 2007, filed an application for the mark YES TO PREVENTION, which was assigned Application Serial No. 77/166,591. That application was filed based on intent to use and covers services described as "Personal coaching services in the fields of health, nutrition, wellness, weight loss, diet, exercise and personal habits; organizing and conducting educational conferences, seminars and orientation meetings for health care institutions, physicians, health care providers and staff in the fields of health, nutrition, wellness, weight loss, diet, exercise and personal habits; providing information in the field of exercise training on behalf of physicians and health care providers via an online interactive network; providing electronic links for physicians to the websites of others in the field of exercise training" in Class 41, and "Medical services, namely, medical, psychiatric, genetic and behavioral health risk testing; providing information in the field of health, nutrition, wellness, weight loss, diet and personal habits, namely, smoking and alcohol use, to health care institutions on behalf of physicians and health care providers via an online interactive network; providing electronic links for physicians to the websites of others in the field of health, nutrition, wellness, weight loss, diet and personal habits, namely, smoking and alcohol use" in Class 44. The application was published for opposition on March 4, 2008.

RESPONSE

Admitted.

7. Applicant's mark, for the services described in Applicant's Application Serial No. 77/166,591 so resembles Opposer's previously used and registered PREVENTION marks as to be likely, when applied to applicant's services, to cause confusion, mistake or deception.

RESPONSE

Denied.

WHEREFORE, Opposer believes it will be damaged by the registration of Applicant's mark and prays that this opposition be sustained and the registration of Application Serial No. 77/166,591 be denied.

RESPONSE

This paragraph refers to a prayer for relief and therefore requires no response.

AFFIRMATIVE DEFENSES

1. Applicant reserves the right to assert affirmative defenses to the allegations of Opposer as may be warranted by discovery in this matter.

COUNTERCLAIMS

Applicant believes it is being and/or will be damaged by continued registration on the Principal Register of the marks shown in Registration Nos. 2,643,325 (the '325 registration), 3,006,983 (the '983 registration), 1,959,078 (the '078 registration); 2,222,899 (the '899 registration); 2,550,507 (the '507 registration); 2,964,475 (the '475 registration); 2,985,760 (the '760 registration); 3,127,258 (the '258 registration); and 2,968,489 (the '489 registration) and hereby petitions to cancel the same.

As grounds for cancellation, it is alleged that:

1. Applicant hereby incorporates the allegations in its Petition for Cancellation Number 92049148 as if fully restated herein.

2. Applicant is and has been in the business of, among other things, providing health, medical and wellness testing, screening, coaching and information services.

3. Applicant uses the term "prevention" and variations of the term "prevention" in its business. Applicant has filed multiple U.S. service mark applications for marks that include the term "prevention."

4. Many third party registrations have issued and exist for marks that incorporate the word "prevention" for health related goods and services. By way of example only and not limitation, the mark YOUTH SMOKING PREVENTION, U.S. Registration Number 3,246,291 is used on "promoting public awareness of the need for youth smoking prevention, positive youth development, and smoking cessation programs" in class 35, among other classes. The

mark ADVANCING SUICIDE PREVENTION, U.S. Registration Number 3,077,686 is used on “printed publications, namely, brochures, pamphlets, and magazines in the field of mental health” in class 16. The mark STROKE PREVENTION PLUS, U.S. Registration Number 2,871,812 is used on “education services, namely, workshops and seminars regarding health care and prevention” in class 41, among other classes. The mark NATIONAL PREVENTION SYMPOSIUM, U.S. Registration Number 3,122,203 is used on “annual educational conference for health educators and professionals” in class 41.

5. “Prevention” is a generic term for hindering or keeping something from happening. Webster’s New Universal Unabridged Dictionary defines the word to mean “the act of preventing; effectual hindrance,” and “prevent” is defined as “to keep from occurring; avert; hinder.” Further “preventive” is defined in the medical context as “a drug or other substance for preventing disease” or “a preventive agent or measure.” (A true copy of these definitions from p. 1535 of Webster’s is attached as Exhibit A).

6. The generic nature of the word “prevention” is confirmed by public and media use of the phrase to refer to the act of preventing, hindering, or alleviating the problems, weight, diseases, illnesses and other afflictions that confront our society. A search on Google’s Internet search engine of the word “prevention” excluding the words “Rodale” or “magazine” yielded close to 90,000,000 results. Some examples of the results included references to Center for Substance Abuse Prevention at <http://www.cdc.gov/>, the National Osteoporosis Foundation’s Five Steps to Bone Health and Osteoporosis Prevention at <http://www.nof.org/prevention/>, the prevention approach of the Prevention Institute at

<http://www.preventioninstitute.org/approach.html>, Diabetes Prevention offered by the American Diabetes Association at <http://www.diabetes.org/diabetes-prevention.jsp>, the National Crime Prevention Council at <http://www.ncpc.org/>, HIV/AIDS Prevention advice at <http://www.avert.org/hivprevention.htm>, and many more. (A true copy of the first page of the Google search results is attached as Exhibit B).

7. There is no evidence that the public or the medical community regards the word “prevention” as anything other than a generic designation, lacking association with any single source of origin.

8. In the alternative, if the word “prevention” is not generic, it is highly descriptive of services and goods relating to the hindering, preventing or alleviating of health problems and of tools to prevent such problems, like dietary food supplements, workout routines and health monitors, and as such cannot be protected absent a showing of secondary meaning.

9. Opposer has filed the present opposition to Applicant’s mark, where Applicant’s mark includes the term “prevention.”

10. Opposer has also filed oppositions against at least six other Applicant marks, where each of the other Applicant marks includes the term “prevention.”

11. The ‘983 registration is for the mark PREVENTION.COM in connection with the following services (the ‘983 services):

advertising services, namely, promoting the goods and services of others by providing a web site at which users can obtain information and can access web site links for products and services in the field of health, fitness, diet, exercise, lifestyle, nutrition and weight loss; administration of a discount program for enabling participants to obtain discounts on goods and services through the use of a discount membership plan, in class 035.

providing on-line electronic bulletin boards for transmission of messages among computer users concerning health, fitness, exercise, lifestyle, nutrition and weight loss, in class 038.

computer services, namely, providing on-line magazines and newsletters in the field of health, fitness, diet, exercise, lifestyle, nutrition and weight loss, in class 041.

Providing a web site on a global computer network featuring information in the field of health, fitness, diet, exercise, healthy lifestyle, nutrition and weight loss, in class 044.

12. The '078 registration is for the mark PREVENTION GUIDE in connection with "magazine in the field of health, fitness, diet, exercise and related lifestyle issues" in class 016, (the '078 goods).

13. The '899 registration is for the mark PREVENTION HEALTH BOOKS in connection with "series of books on health, fitness, diet, exercise and lifestyle" in class 016 (the '899 goods).

14. The '507 registration is for the mark PREVENTION in connection with the following goods (the '507 goods):

pre-recorded audio and video cassettes and cds in the field of health, fitness, diet, exercise and healthy lifestyles in class 009;

and

shirts, hats in class 005.

15. The '475 registration is for the mark PREVENTION in connection with "promoting the goods and services of others through the distribution of products, samples and coupons at a mobile health exhibit" in class 35 (the '475 services).

16. The '489 registration is for the mark PREVENTION FITNESS SYSTEM in connection with "pre-recorded videotapes featuring workout routines" in class 009 (the '489 goods).

17. The '760 registration is for the mark PREVENTION in connection with the following goods (the '760 goods):

dietary food supplements and food supplements; herbal supplements and nutritional supplements; vitamins and mineral supplements in class 005.

18. The '258 registration is for the mark PREVENTION mark in connection with "heart monitors and blood pressure monitors" in class 010 (the '258 goods).

19. After due investigation, and on information and belief, the marks in the '475, '489, '760, '983, and '258 registrations are highly descriptive when used on or in connection with their respective goods and/or services. On information and belief, the marks in the '475, '489, '760, '983, and '258 registrations have not and never will develop secondary meaning or become known as trademarks in connection with their respective goods and services.

20. After due investigation, and on information and belief, the marks in the '078, '899, '489, '507, '475, '760, '983, and '258 registrations are generic when used on or in connection with their respective goods and services. The primary significance of the '078, '899, '489, '507, '475, '760, '983, and '258 registrations to the public is to identify their respective goods and services when used on or in connection therewith rather than the source of those goods and services.

21. As a result of third party use of the word "prevention" and the '078 mark, '899 mark, '507 mark, '475 mark, '489 mark, '760 mark, '983 mark, and '258 mark, consumers do not associate those marks with a single source and they do not function as trademarks.

WHEREFORE, Applicant, having fully answered the Notice of Opposition and believing it will be damaged by sustaining the Registrant's '325, '078, '899, '507, '475, '760, '258, '489 and '983 registrations, respectfully requests that the '325, '078, '899, '507, '475, '760, '258, '489 and '983 registrations be canceled and these counterclaims sustained, the Opposition be dismissed with prejudice and that Applicant's application proceed to registration.

Please charge the amount of \$3,600.00 for the statutory cancellation filing fees, as well as any shortfall, excess or additional fees due in connection with this Petition for Cancellation at

any time to PTO Deposit Account No. 50-0766. The fees for the Petition for Cancellation Number 92049148 regarding the '325 registration have been paid separately.

~~U.S. Preventive Medicine, Inc., Applicant~~

Date: 9-8-2008

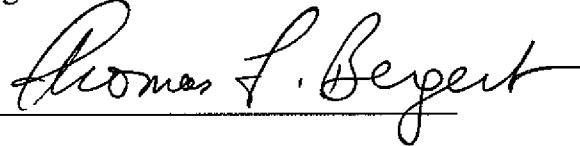
By: Thomas F. Bergert

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Counsel for Applicant

CERTIFICATE OF SERVICE

On September 8, 2008, a true and correct copy of the foregoing **ANSWER and COUNTERCLAIMS** was duly served by first class mail, postage pre-paid, with courtesy electronic mail copy to counsel for Opposer:

Kevin G. Smith, Esquire
Gary D. Krugman, Esquire
Sughrue Mion, PLLC
2100 Pennsylvania Avenue NW
Washington, DC 20037-0032
KSmith@sughrue.com
GKrugman@sughrue.com



The signature is a cursive script that reads "Thomas L. Beyert". It is written in black ink and is positioned above a horizontal line.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application No. 77/166,591

Rodale Inc.,)	
)	
Opposer,)	
)	Opposition No. 91185538
v.)	
)	
U.S. Preventive Medicine, Inc.,)	
)	
Applicant.)	
)	

EXHIBIT A

him. [1350-1400; ME *preuayllen* to grow very strong < L *praepalere* to be more able, equiv. to *prae-* PRE- + *palere* to be strong; see PREVALENT] —*pre-vail/er*, *n.*
—*Syn.* 2. preponderate. 3. overcome. —*Ant.* 3. lose.

pre-vail-ing (pri vā/ling), *adj.* 1. predominant; prevailing winds. 2. generally current; the prevailing opinion. 3. having superior power or influence. 4. effectual. [1580-90; PREVAIL + -ING] —*pre-vail/ing-ly*, *adv.* —*pre-vail/ing-ness*, *n.*
—*Syn.* 1. preponderant, preponderating, dominant, prevalent. 2. common. See *current*. 4. effective. —*Ant.* 2. rare.

prev-a-lent (prev/ə lent), *adj.* 1. widespread; of wide extent or occurrence; in general use or acceptance. 2. having the superiority or ascendancy. 3. Archaic, effectual or efficacious. [1570-80; < L *praevalens* (s. of *praevalens*), *pp.* of *praevalere* to PREVAIL. See PRE-, -VALENT] —*prev-a-lence*, *prev-a-lent-ness*, *n.*
—*prev-a-lent-ly*, *adv.*
—*Syn.* 1. common, extensive. See *current*. —*Ant.* 1. rare.

pre-var-i-ate (pri var/i kāt/), *v.t.*, -cat-ed, -cat-ing. to speak falsely or misleadingly; deliberately misstate or create an incorrect impression; lie. [1575-85; < L *praevaricatus*, *ptp.* of *praevaricare* to straddle something; (of an advocate) collude with an opponent's advocate, equiv. to *prae-* PRE- + *varicare* to straddle, deriv. of *varus* bent outwards, bow-legged] —*pre-var/i-ca-tion*, *n.* —*pre-var/i-ca-tive*, *pre-var-i-ca-to-ry* (pri var/i kə tōr/ē, -tōr/ē), *adj.*
—*Syn.* evades, shift.

pre-var-i-ca-tor (pri var/i kə tōr/), *n.* 1. a person who speaks falsely; liar. 2. a person who speaks so as to avoid the precise truth; quibbler; equivocator. [1535-45; < L *praevaricator*; see PREVARICATE, -TOR]

pre-ven-nance (prāv nāns/), *n.*, *pl.* -nances (-nāns/) for 2. French. 1. assiduity in anticipating or catering to the pleasures of others. 2. an instance of this.

pre-ven-ient (pri ven/yant), *adj.* 1. coming before; antecedent. 2. anticipatory. [1600-10; < L *praeveniens* (s. of *praeveniens*) coming before, *pp.* of *praevenire* to anticipate. See PRE-, CONVENIENT] —*pre-ven-nance* (prev/ə nans), *pre-ven-tence* (pri ven/yans), *n.* —*pre-ven/ient-ly*, *adv.*

preven/ient grace/, divine grace operating on the human will prior to its turning to God. [1560-70]

pre-vent (pri vent/), *v.t.* 1. to keep from occurring; avert; hinder: *He intervened to prevent bloodshed.* 2. to hinder or stop from doing something: *There is nothing to prevent us from going.* 3. Archaic. to act ahead of; forestall. 4. Archaic. to precede. 5. Archaic. to anticipate. —*v.i.* 6. to interpose a hindrance: *He will come if nothing prevents.* [1375-1425; late ME < L *praevenire* (*ptp.* of *praevenire* to anticipate), equiv. to *prae-* PRE- + *venire* (s. of *venire* to come) + -*tis* *ptp.* suffix] —*pre-vent/a-ble*, *pre-vent/i-ble*, *adj.* —*pre-vent/a-ble-ty*, *n.* —*pre-vent/ing-ly*, *adv.*

—*Syn.* 1. obstruct, forestall, preclude, obviate, thwart. PREVENT, HAMPER, HINDER, IMPEDE refer to different degrees of stoppage of action or progress: To PREVENT is to stop something effectually by forestalling action and rendering it impossible: *to prevent the sending of a message.* To HAMPER is to clog or entangle or put an embarrassing restraint upon: *to hamper preparations for a trip.* To HINDER is to keep back by delaying or stopping progress or action: *to hinder the progress of an expedition.* To IMPEDE is to make difficult the movement or progress of anything by interfering with its proper functioning: *to impede a discussion by demanding repeated explanations.* —*Ant.* 1. help, assist.

pre-vent-er (pri ven/tər), *n.* 1. a person or thing that prevents. 2. Naut. a. any of various lines set up to reinforce or relieve ordinary running or standing rigging. b. a line for preventing a sail from jibbing. [1580-90; PREVENT + -ER]

pre-ven-tion (pri ven/shən), *n.* 1. the act of preventing; effectual hindrance. 2. a preventive: *This serum is a prevention against disease.* [1520-30; < LL *praevention* (s. of *praevenire*) a forestalling. See PREVENT, -ION]

pre-ven-tive (pri ven/tiv), *adj.* 1. Med. of or noting a drug, vaccine, etc., for preventing disease; prophylactic. 2. serving to prevent or hinder; preventive measures. —*n.* 3. Med. a drug or other substance for preventing disease. 4. a preventive agent or measure. Also, *pro-*

vent-a-tive (pri ven/tə tiv) (for defs. 2, 4). [1630-40; PREVENT + -IVE] —*pre-ven/tive-ly*, *adv.* —*pre-ven/tive-ness*, *n.*

preven/tive deten-tion, 1. the holding of someone in jail or in an institution because he or she is regarded as a danger to the community. 2. Eng. Law, imprisonment of habitual criminals for periods ranging from 6 to 14 years during which they are given corrective training or placed under psychiatric and medical care. [1905-10]

preven/tive law/, Law, consultation, as between lawyer and client, to prevent future litigation by dispensing legal advice, clarifying the terms of a contract, etc.

preven/tive med/icine, 1. the branch of medical science that deals with prevention of disease. 2. a medication or other agent used for prophylaxis. [1760-70]

preven/tive war/, Mil. an attack against a possible enemy to prevent an attack by that enemy at a later time. Also called *preemptive strike*. [1630-40]

pre-view (prē/vyū/), *n.* 1. an earlier or previous view. 2. an advance showing of a motion picture, play, etc., before its public opening. 3. an advance showing of brief scenes in a motion picture, television show, etc., for purposes of advertisement. 4. anything that gives an advance idea or impression of something to come: —*v.t.* 5. to view or show beforehand or in advance. Also, *pré-vue*. [1600-10; 1920-25 for def. 2; PRE- + *view*]

pre-vi-ous (prē/vē əs), *adj.* 1. coming or occurring before something else; prior: *the previous owner.* 2. Informal. done, occurring, etc., before the proper time; premature: *Aren't you a little previous with that request?* 3. previous to, before; prior to: *Previous to moving here she lived in Chicago.* [1615-25; < L *praevious* going before, equiv. to *prae-* PRE- + *vi(a)* way + -*us* *adj.* suffix] —*pre-vi-ous-ly*, *adv.* —*pre-vi-ous-ness*, *n.*
—*Syn.* 1. earlier, former, preceding, foregoing.

pre-vi-ous ques-tion, Parl. Proc. a move that a vote be taken at once on a main question, used esp. as a means of cutting off further debate. [1690-1700]

pre-vise (pri viz/), *v.t.*, -vised, -vis-ing. 1. to foresee. 2. to forewarn. [1425-75; late ME < L *praevisus* *ptp.* of *praevidere* to foresee. See PRE-, VISA] —*pre-vi-sor*, *n.*

pre-vi-sion (pri vizh/en), *n.* 1. foresight, foreknowledge, or prescience. 2. a prophetic or anticipatory vision or perception. [1605-15; PRE- + *vision*] —*pre-vi-sion-al*, *adj.*

pre-vo-cal-ic (prē/və kal/ik), *adj.* Phonet. immediately preceding a vowel. [1905-10; PRE- + *VOCALIC*] —*pre-vo-cal/i-cal-ly*, *adv.*

pre-vo-ca-tion-al (prē/və kə shən/), *adj.* of, pertaining to, or constituting preliminary vocational training. [1910-15; PRE- + *VOCATIONAL*]

Pré-vost (prā vō/), *n.* Marcel (mar sel/), 1862-1941, French novelist and dramatist.

Pré-vost d'Ex-illes (prā vō deg zēl/), Antoine (ān twān/ tēān swā/), ("Abbé Prévoist"), 1697-1763, French novelist.

pre-vue (prē/vyū/), *n.*, *v.t.*, -vued, -vu-ing. preview.

pre-war (prē/wōr/), *adj.* before the war: *prewar prices.* [1905-10; PRE- + *WAR*]

pre-washed (prē/wōsh/ -wōsh/), *adj.* being washed before sale, esp. to produce a soft texture or a worn look: *prewashed blue jeans.* [PRE- + *WASHED*]

prexy (prek/sē/), *n.*, *pl.* prex-ies. Slang. a president, esp. of a college or university. Also, *prex*. [1855-60; *prex* (by shortening and alter. of *president*) + -*y*]

prey (prā), *n.* 1. an animal hunted or seized for food, esp. by a carnivorous animal. 2. a person or thing that is the victim of an enemy, a swindler, a disease, etc.; gull. 3. the action or habit of preying; a beast of prey. 4. Archaic. booty or plunder. —*v.i.* 5. to seize and devour prey, as an animal does (usually fol. by *on* or *upon*): *Foxes prey on rabbits.* 6. to make raids or attacks for booty or plunder: *The Vikings preyed on coastal settlements.* 7. to exert a harmful or destructive influence: *His worries preyed upon his mind.* 8. to victimize another or others (usually fol. by *on* or *upon*): *loan sharks that prey upon the poor.* [1200-50; ME *preye* < OF < L *praeda* booty, prey; akin to *prehendere* to grasp; seize (see *PREHENSION*)] —*prey/er*, *n.*
—*Syn.* 2. dupe, target.

prez (préz/), *n.* Informal. president. [by shortening and resp.]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application No. 77/166,591

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)	
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9. Prevention First

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